



## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OLEM-2018-0082, FRL-9981-78-OLEM]**

### **Agency Information Collection Activities; Proposed Collection; Comment Request; National Minimum Criteria for Disposal of Coal Combustion Residuals from Electric Utilities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), National Minimum Criteria for Disposal of Coal Combustion Residuals from Electric Utilities (EPA ICR No. 2571.01, OMB Control No. 2050-NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. The burden associated with this ICR was previously covered by the Identification, Listing and Rulemaking Petitions ICR (EPA ICR No. 1189.26, OMB Control No. 2050-0053) and is currently approved through November 30, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, referencing by Docket ID No. EPA-HQ-OLEM-2018-0082, online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail

Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Hillyer, Office of Resource Conservation and Recovery (mail code 5304P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 703-347-0369; fax number: 703-308-0514; email address: [hillyer.kirsten@epa.gov](mailto:hillyer.kirsten@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* On April 17, 2015, the EPA published a final rule to regulate the disposal of coal combustion residuals (CCR) from electric utilities as solid waste under Subtitle D of the Resource Conservation and Recovery Act (RCRA) (80 FR 21302). EPA established national minimum criteria for existing and new CCR landfills and CCR surface impoundments and all lateral expansions to include location restrictions, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post-closure care, and recordkeeping, notification, and internet posting requirements.

In December 2016, the President signed the Water Infrastructure Improvements for the Nation (WIIN) Act. The WIIN Act amended RCRA Subtitle D and established new statutory provisions applicable to CCR landfills and CCR surface impoundments. In particular, the WIIN Act provides that states may, but are not required to, develop and submit a permit (or other system of prior approval) program for CCR disposal to EPA for approval. Such a program does not have to be identical to the requirements in the CCR rule (40 CFR part 257, subpart D), but must be at least as protective as the CCR rule. EPA developed an interim final guidance document that provides information about the provisions of the 2016 WIIN Act related to CCR as well as the process and procedures EPA will generally use to review and make determinations on state CCR permit programs. The release of this interim final guidance was announced on August 15, 2017 (82 FR 38685), and EPA accepted public comment for thirty days.

On June 14, 2016, the U.S. Court of Appeals for the District of Columbia (D.C. Circuit)

ordered a partial vacatur. As a consequence of the vacatur, EPA published a direct final rule on August 5, 2016 (81 FR 51802), to remove 40 CFR 257.100(b), (c), and (d), which provided “early closure” provisions for certain inactive CCR surface impoundments. It also extended compliance deadlines for those units.

On July 17, 2018, EPA signed a rule to finalize certain revisions to the 2015 CCR regulations to: provide states with approved CCR permit programs under the WIIN Act, or EPA where EPA is the permitting authority, the ability to use alternate performance standards; to revise the groundwater protection standard for constituents which do not have an established drinking water standard (known as a maximum contaminant level or MCL); and to provide facilities triggered into closure additional time to cease receiving waste and initiate closure.

*Form Numbers:* None.

*Respondents/affected entities:* Business and other for-profit.

*Respondent’s obligation to respond:* mandatory 42 U.S.C. 6907(a)(3), 6912(a)(1), 6944(a); 33 U.S.C. 1345(d) and (e).

*Estimated number of respondents:* 534

*Frequency of response:* On occasion

*Total estimated burden:* 358,957 hours. Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$63,858,128, which includes \$41,112,513 in annualized O&M costs and \$22,745,615 in annualized labor costs.

*Changes in Estimates:* The existing burden hours have been revised to reflect changes in the regulatory program realized as a result of the August 2016 direct final action, the Interim Final Guidance for state CCR programs, and the July 2018 final amendments to the 2015 CCR rule. The burden hours are likely to change additionally in the future due to ongoing litigation and EPA’s stated intention to reconsider additional portions of the 2015 rule. Any future burden

changes will be evaluated once those changes are known.

Dated: July 25, 2018.

Barnes Johnson, Director,

Office of Resource Conservation and Recovery.

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